

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Mar 11, 2021

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,  
Plaintiff,

-vs-

JERONIMO BARRAGAN NAVA,  
Defendant.

No. 2:09-CR-6039-WFN-1

ORDER DENYING MOTION FOR  
COMPASSIONATE RELEASE

Pending before the Court is Defendant's Motion for Compassionate Release. ECF No. 550. The Facility Administrator denied Defendant's request for compassionate release on September 28, 2020. Consequently, he has exhausted his claim with the Bureau of Prisons [BOP].

Defendant must demonstrate that "(i) extraordinary and compelling reasons warrant such a reduction; or (ii) the defendant is at least 70 years of age, has served at least 30 years in prison, pursuant to a sentence imposed under section 3559(c) . . . and a determination has been made by the Director of the Bureau of Prisons that the defendant is not a danger to the safety of any other person or the community, as provided under section 3142(g)." 18 U.S.C. § 3582(c)(1)(A). As Defendant is not over 70 years old, he must demonstrate that extraordinary and compelling reasons warrant reduction.

Defendant has not demonstrated extraordinary or compelling reasons warranting a sentence reduction. Defendant proffers, without proof, that he is obese and suffers from hypertension. Accepting the Defendant's representations as true, Defendant's health concerns do not justify compassionate release. Though Defendant's weight and health issues may put him at increased risk of serious illness or death from COVID-19, it appears based on his report of symptoms that he already contracted and recovered, albeit with

1 reported lingering symptoms, from COVID-19. Though his health records do not reflect a  
2 COVID-19 diagnosis, he reports suffering from symptoms consistent with COVID-19 at a  
3 time when he was exposed to known cases of COVID-19. His medical records indicate that  
4 by September 2020 he reported no illness when obtaining his flu shot, so presumably he no  
5 longer suffered from a COVID-19 consistent illness at that time. The Court recognizes that  
6 re-infection is possible, but having already contracted COVID-19 increases Defendant's  
7 immunity if he were exposed again. The BOP is in the process of vaccinating inmates.  
8 Defendant's obesity moves him towards the front of the line for vaccination which will  
9 further protect him from more serious illness.

10 Though the Court recognizes that multiple credible reports suggest that the BOP's  
11 COVID-19 response has not successfully prevented the spread in all facilities, the danger of  
12 contracting COVID-19 does not constitute an extraordinary or compelling reason on its own.

13 Defendant's criminal history suggests he may pose a danger to the community.  
14 Defendant's underlying conviction was serious; he distributed large amounts of  
15 methamphetamine. He has a history of drug distribution and firearm possession. He faced  
16 a guideline range of 168 - 210 months and was sentenced to 198 months pursuant to a  
17 Rule 11(c)(1)(C) agreement. Defendant has not demonstrated extraordinary or compelling  
18 reasons supporting his release. The Court has reviewed the file and Motion and is fully  
19 informed. Accordingly,

20 **IT IS ORDERED** that Defendant's Motion for Compassionate Release, filed on  
21 January 11, 2021, **ECF No. 550**, is **DENIED**.

22 The District Court Executive is directed to file this Order and provide copies to  
23 counsel.

24 **DATED** this 11th day of March, 2021.

25 

26 WM. FREMMING NIELSEN  
27 SENIOR UNITED STATES DISTRICT JUDGE  
28

03-10-21